



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96164; File No. SR-MIAX-2022-39]

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange, LLC to Amend Exchange Rule 1801, Definitions and Rule 1809, Terms of Index Options Contracts to Remove References to BRIXX Indexes

October 27, 2022.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 24, 2022, Miami International Securities Exchange, LLC (“MIAX Options” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Interpretation and Policy .01 to Exchange Rule 1801 and Exchange Rules 1809(a)(3)-(5) to remove rule text related to certain indexes on which the Exchange may list and trade options.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options’ principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On April 17, 2020, the Exchange filed its proposal with the Commission to amend certain of the Exchange's rules in connection with the Exchange's plan to list and trade options on five commercial real estate indexes, at that time called the Advanced Fundamentals ("AF") Commercial Real Estate Indexes, which were comprised of the AF CRE Residential Index, AF CRE Retail Index, AF CRE Office Index, AF CRE Hospitality Index and AF CRE Composite Index (collectively, the "AF CRE Indexes").³ The AF CRE Indexes were later rebranded as the BRIXXTM Commercial Real Estate Indexes (the "BRIXX Indexes"), as follows: (1) the AF CRE Office Index was rebranded as the BRIXX Office Index; (2) the AF CRE Retail Index was rebranded as the BRIXX Retail Index; (3) the AF CRE Residential Index was rebranded as the BRIXX Residential Index; (4) the AF CRE Hospitality Index was rebranded as the BRIXX Hospitality Index; and (5) the AF CRE Composite Index was rebranded as the BRIXX Composite Index.⁴

³ See Securities Exchange Act Release No. 88767 (April 29, 2020), 85 FR 26743 (May 5, 2020) (SR-MIAX-2020-08) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to List and Trade Options That Overlie Five Advanced Fundamentals LLC Commercial Real Estate Indexes) (the "AF CRE Index Notice"). The AF CRE Indexes measure real-time real estate returns representing the performance of real estate investment trusts ("REITs") and/or publicly listed equity companies across various sectors. See *id.*

⁴ See Securities Exchange Act Release No. 91542 (April 13, 2021), 86 FR 20426 (April 19, 2021) (SR-MIAX-2021-09).

Currently, Interpretation and Policy .01 to Exchange Rule 1801, provides a table showing the reporting authority⁵ for certain indexes on which the Exchange may list and trade options, including Devexperts⁶ as the reporting authority for each of the BRIXX Indexes. Further, Exchange Rules 1809(a)(3)-(5) provide that the Exchange is able to list up to twelve (12) standard monthly expirations on the BRIXX Indexes, options on the BRIXX Indexes would be European-style index options, and options on the BRIXX Indexes would be A.M.-settled.⁷

Proposal

The Exchange proposes to amend Interpretation and Policy .01 to Exchange Rule 1801 and Exchange Rules 1809(a)(3)-(5) to remove rule text related to the BRIXX Indexes. Since the publication of the AF CRE Index Notice and to date, the Exchange has not listed options for trading on the BRIXX Indexes for business reasons and has determined not to list options for trading on the BRIXX Indexes in the future. Accordingly, the Exchange proposes to amend Exchange Rules 1801, Interpretation and Policy .01, and 1809(a)(3)-(5) to remove all rule text related to the BRIXX Indexes. The purpose of this change is to provide clarity in the rule text that the Exchange does not plan to list for trading options on the BRIXX Indexes.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular, in that it is

⁵ The term "reporting authority" with respect to a particular index means the institution or reporting service designated by the Exchange as the official source for (1) calculating the level of the index from the reported prices of the underlying securities that are the basis of the index and (2) reporting such level. The reporting authority for each index approved for options trading on the Exchange shall be Specified (as provided in Rule 1800) in the Interpretations and Policies to Rule 1801. See Exchange Rule 1801(p).

⁶ Devexperts provides consulting and software development services for the financial industry, including calculation and reporting services, on-line and desktop trading execution platforms, risk management and fix gateways, and real-time and historical data services. See <https://devexperts.com/about-devexperts/>.

⁷ See Exchange Rules 1809(a)(3)-(5).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes will provide greater clarity to Members¹⁰ and the public regarding the Exchange's rules. In particular, by removing all rule text related to the BRIXX Indexes, the Exchange's rules will be clear that the Exchange does not plan to list options on the BRIXX Indexes and it is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed changes will not impose any burden on intra-market competition as there is no functional change to the Exchange's System and because the rules of the Exchange apply to all MIAX participants equally. The proposed rule change will have no impact on competition as it is not designed to address any competitive issue but rather is designed to add clarity to the rulebook that the Exchange will not offer options for trading on the BRIXX Indexes.

¹⁰ The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal does not address any competitive issues and is intended to protect investors by providing further transparency regarding the Exchange's product offerings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6)¹² thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MIAX-2022-39 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2022-39. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2022-39, and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier,

Deputy Secretary.

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¹³ 17 CFR 200.30-3(a)(12).